

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

JOSE O. AND MIRNA E. REYES, SP 2015-LE-074 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit a reduction in minimum yard requirements based on an error in building location to permit addition to remain 8.9 ft. from a side lot line. Located at 6007 Hibbling Ave., Springfield, 22150, on approx. 10,484 sq. ft. of land zoned R-4. Lee District. Tax Map 80-3 ((3)) (11) 26. Ms. Theodore moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 28, 2015; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the land.
2. The noncompliance was done in good faith.
3. By obtaining this special permit today, the applicants can go forward with acquiring any approvals that are needed. They have cleared a number of the other violations that were reflected in the Notice of Violation.
4. While the Board looks at each case on its individual merits, there are number of similar BZA approvals in this particular location.
5. The applicants have read, understand, and agree with the proposed development conditions.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. The error exceeds ten (10) percent of the measurement involved, or
- B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
- C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and

- D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
- E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- F. It will not create an unsafe condition with respect to both other property and public streets, and
- G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.
- H. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

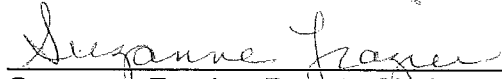
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. This special permit is approved for the location of the dwelling as shown on the plat titled, "Special Permit Plat, Lot 26, Block 11, Section 7, Monticello Forest," prepared by Michael L. Flynn, Land Surveyor, of Merestone Land Surveying, PLLC, dated April 6, 2015.
- 2. All applicable permits and inspections for the enclosure of the carport addition shall be completed within 90 days.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Hart seconded the motion, which carried by a vote of 5-0. Mr. Smith and Mr. Hammack were absent from the meeting.

A Copy Teste:

A handwritten signature in cursive script, reading "Suzanne Frazier", is written over a horizontal line.

Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals